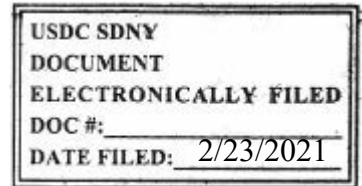


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



United States of America,

—v—

Ali Sadr Hashemi Nejad,

Defendant.

18-cr-224 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

Pursuant to the Court's February 17, 2021 Opinion, Garrett Lynch has requested the Court file the attached declaration and exhibits on his behalf because he does not have electronic filing privileges.

SO ORDERED.

Dated: February 23, 2021  
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", written over a horizontal line.

ALISON J. NATHAN  
United States District Judge

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
	:	
v.	:	
	:	18-cr-224 (AJN)
ALI SADR HASHEMI NEJAD,	:	
	:	
Defendant.	:	
-----	x	

**DECLARATION OF GARRETT LYNCH**

Garrett Lynch, under penalties of perjury, hereby affirms and states as follows:

1. I am employed as an Assistant District Attorney in the Office of Cyrus R. Vance, Jr., District Attorney, New York County ("DANY"). I was assigned to the captioned matter as a Special Assistant United States Attorney ("SAUSA") beginning in or around June 2017, and respectfully submit this affirmation pursuant to the Court's Opinion & Order dated September 16, 2020 ("September 16 Order").
2. My responses to the questions on page 32 of the September 16 Order are set forth below.

***Question 1: When did you first learn of GX 411?***

3. The document that would become GX 411 was produced to DANY and other federal and state investigating agencies on a voluntary basis in or around March 2015 by Commerzbank (the "Bank") in connection with a DANY investigation principally of possible violations of New York State law including the falsification of business records related to the evasion of U.S. sanctions laws and regulations ("Bank Investigation"). I recall reviewing GX 411 no later than during the fourth quarter of 2015, a period in which I remember coming across the document while organizing documents and files relating to the Bank Investigation and bringing it to the attention of DANY colleagues who, together with me, were assigned to a separate investigation of a Venezuelan housing matter ("Venezuelan Housing Investigation") to which it appeared to me to be potentially relevant.<sup>1</sup>

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<sup>1</sup> I was assigned to the Venezuelan Housing Investigation in or around May 2015 and appointed a Special Assistant U.S. Attorney in this matter in June 2017, after the U.S. Attorney's Office for the Southern District of New York took the lead role in this investigation in or around April 2017.

***Question 2: When did you first realize that GX 411 had not been disclosed to the defense? Why did you not immediately disclose the document at this time?***

4. As part of my role as a SAUSA in this case, I provided documents and information obtained by DANY in the Venezuelan Housing Investigation to the various Assistant U.S. Attorneys assigned to this case over time. The AUSAs handled the production of discovery in this case, as the discovery transmittal letters reflect. GX 411 is among the documents I provided to the AUSAs, as explained in greater detail below, and I do not recall considering whether it had been produced by the AUSAs to the defense until I learned that it had not been disclosed between the evening of Friday, March 6 and Saturday, March 7, 2020. At the time I became aware of this nondisclosure, the AUSAs were in the process of disclosing GX 411 to the defense.
5. By way of background, while reviewing files in my office in December 2019 in advance of trial in this matter, I came across GX 411. On December 19, 2019, in an email exchange with the AUSAs, I noted that the Bank had “picked up on ‘Stratus’ in the payment message, drew the connection to the Iranian entity, and filed a **report with OFAC.**” Exhibit 1 (Email dated December 19, 2019 at 5:21 PM from G. Lynch to AUSA-1, AUSA-2, and AUSA-3, re: “Re: Sadr MILs”) (bold added). GX 411 is the OFAC report I referred to in this email.
6. On January 7, 2020, while AUSA-1 was reviewing evidence obtained pursuant to subpoenas issued by DANY relating to each of the wire transfers at issue in this case (“wire transfers”), AUSA-1 sent me an email asking about the April 4, 2011 wire (*i.e.*, the payment referred to in GX 411). Exhibit 2 (Email dated January 7, 2020 at 5:37 PM from AUSA-1 to G. Lynch, AUSA-2 and AUSA-3, re: “Sadr - wire transfers”). AUSA-1 and I then communicated over a number of emails and spoke by telephone about the wire transfer evidence including the April 4, 2011 wire. In particular, concerning the April 4, 2011 wire, AUSA-1 and I discussed the Bank’s document production under a subpoena in the Venezuelan Housing Investigation, which consisted of a single wire transfer record of the April 4, 2011 payment and a related Excel spreadsheet. In addition, in the course of these communications, I noted that GX 411, a separate document, might be probative in the government’s case. As reflected in my January 10, 2020 email to AUSA-1, I emailed GX 411 to AUSA-1 and other trial AUSAs, referring to the document AUSA-1 and I had discussed:

In the spirit of closing the loop on the \$29M payment through Commerz, attached is the voluntary disclosure Commerze made to OFAC re: the payment.

*Id.* (Email dated January 10, 2020 at 4:52 PM from G. Lynch to AUSA-1, cc’ing AUSA-2 and AUSA-3, re: “RE: Sadr - wire transfers”).

At the time of this discussion in early January 2020, I expressed my view that GX 411 would be probative evidence at trial because, in my view, it reflected an attempt on Mr. Sadr’s part to mislead the Bank concerning the connection to Iran of the beneficiary entity of the funds referred to in the document, as well as of the entity’s owners. See also ¶ 8 below.



7. In late January 2020, I raised the question of whether the government wished to consider having the Bank provide a witness to explain GX 411, as well as authenticate and provide the foundation to admit the wire transfer record of the April 4, 2011 wire payment that the government would be offering in evidence. At this time, I had already offered to contact the Bank to obtain a witness for the latter purpose. Exhibit 3 (Email dated January 30, 2020 at 1:02 PM from G. Lynch to AUSA-1, AUSA-2 and AUSA-3, re: “Commerzbank”). In confirming that I was following up with the Bank, I also wrote to the AUSAs as follows:

The other asterisk with Commerz is that they filed a voluntary disclosure with OFAC regarding the payment – we should discuss whether it’s worth having the Commerz witness go into that. It was signed by the head of AML/Anti-Fraud/Sanctions Compliance in NY – I’ll see if she’s still with the bank.

Exhibit 4 (Email dated January 31, 2020 at 11:05 AM from G. Lynch to AUSA-1, AUSA-2 and AUSA-3, re: “FW: Trial witness”).<sup>2</sup> After I had contacted the Bank, I wrote to the AUSAs that the Bank contact I had reached recalled that GX 411 had been prepared not at the time of the wire that the government planned to introduce at trial, but at a later point in time, during the Bank Investigation (the payment occurred in April 2011, while GX 411 was dated June 2011). *Id.* (Email dated February 1, 2020 at 12:54 PM, from AUSA-1 to G. Lynch re: “RE: Trial witness.”). This comment was in response to AUSA-1’s question, reflected in the email immediately prior to the above-cited email, in which AUSA-1 asked: “Did you talk to her/how did it go? Do we know what the basis for the disclosure was?” *Id.* (Email dated February 1, 2020 at 9:54 AM, from AUSA-1 to G. Lynch, AUSA-2, AUSA-3, re: “RE: Trial witness.”).

8. Following this exchange, I spoke to AUSA-1 and discussed the background of GX-411, specifically that GX 411 was generated as part of a compliance “look-back” exercise conducted after the generation of the April 4, 2011 wire record and was voluntarily disclosed to DANY in the Bank Investigation. AUSA-1 expressed her view in substance that, in view of that background, the evidence as to GX 411 would be unduly complex. Accordingly, AUSA-1 communicated that there was no need to follow up with the Bank to identify a witness to testify concerning GX 411. Accordingly, I ceased my efforts to secure a Bank witness to testify about GX 411 and recall no further contact with the Bank until March 6, 2020.

***Question 3: What specific communications did you have regarding GX 411 or the disclosure of GX 411 with other prosecutors, whether, oral, written or electronic. When did these communications occur? Attach any record you have of these communications?***

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<sup>2</sup> With respect to Court’s observation at page 29 of the September 16 Order that this email “at least arguably suggest[s], as Mr. Sadr argues, that the prosecutors recognized that GX 411 was not wholly helpful to the Government,” I did not mean the reference to “asterisk” to suggest any ambiguity as to what I believed to be the inculpatory value of GX 411. Rather, by “asterisk” I only intended to refer to “an additional item” – in this case, an additional matter to which a Bank witness would be relevant. See also response to Question 4.



9. In addition to the above-described conversations<sup>3</sup> and electronic communications, which are reflected in the emails I attach hereto as Exhibits 1-4, on Friday, March 6, 2020, I had one or more conversations with AUSA-1 in which, in substance, she conveyed that, based on defense cross-examination of a bank witness earlier that day, AUSA-1 now was of the view that the government should offer GX 411 and asked me to obtain a suitable Bank witness for Monday, March 9. I then contacted the Bank by telephone and email. Exhibit 5 (Email dated March 7, 2020 at 2:46 AM from G. Lynch to Christina Spiller, cc'ing AUSA-1, re: "RE: Trial Witness"). (I address other communications with the AUSAs concerning GX 411 in response to Question 5 below.)

***Question 4: When did you first recognize GX 411 as having exculpatory value? If you thought that the document was wholly inculpatory, provide a good faith basis for that understanding.***

10. I did not consider that GX 411 had exculpatory value until the defense raised this issue following its receipt of the document from the government on or about March 7, 2020. I believed the document was wholly inculpatory because, as I viewed it in combination with other evidence, it reflected that the Bank (a) had conducted due diligence on the April 4, 2011 payment in an effort to determine whether the beneficiary entity of the payment (Stratus International) was an Iranian entity or was connected with Iran, but (b) was unable conclusively to make that determination because it was misled by Mr. Sadr. Specifically, when the Bank submitted a series of questions about this entity to the transmitting Venezuelan bank (which, in turn, transmitted the questions to Mr. Sadr), Mr. Sadr responded by providing partial and, in my view, misleading information. As a result, the Bank, through its research, could not verify that the entity in fact was Iranian, notwithstanding its suspicions, which it reported to OFAC. In context, therefore, I viewed the document as probative of misleading conduct on the part of Mr. Sadr.

***Question 5: With specificity, what role did you play in drafting the Government's March 8, 2020 letter. See Ex. C. What role did you play in deleting the accurate sentence responsive to the Court's question that was originally drafted by AUSA-1? See Dkt. No. 354 at 14 ("The Government did not specifically identify that GX 411 had not previously been produced in discovery."). What role did you play in drafting the sentence that the Court has concluded was a misrepresentation? See Dkt. No. 277 at 1 ("The Government made clear that GX 411 was a newly marked exhibit . . ."). Why was this sentence changed? Attach any communications related to this change.***

11. I did not draft the letter or any portion of the letter referred to in the September 16 Order as Ex. C. AUSA-1 emailed her draft to me, AUSA-2 and AUSA-3 at 9:31 PM on March 8, 2020. Exhibit 6 (Email dated March 8, 2020 at 9:31 PM from AUSA-1 to G. Lynch, AUSA-2, AUSA-3, re: "RE: Proofing and then I'll file these objections"). At 9:42 PM, I responded by providing certain comments to AUSA-1 in an email, including, among others, a list of summary background points concerning the Bank Investigation in which GX 411 was obtained; an observation that I had provided GX 411 to AUSA-1 in January

---

<sup>3</sup> With reference to the above-referenced conversations, I do not have records of telephone calls in this period, all of which, to my best recollection, were made to or from my desk phone at DANY.

2020; and an overview of the review I had conducted of the materials provided by the Bank in the Bank Investigation, from which review I had found no additional information concerning the transaction or entities that were subjects of the trial. *Id.* (Email dated March 8, 2020 at 9:42 PM from G. Lynch to AUSA-1, re: “RE: Proofing and then I’ll file these objections”).

12. I have no recollection and have found no communications or documents reflecting that I was included in any electronic or oral communications concerning the government’s letter, as edited after 9:42 PM when I commented on AUSA-1’s draft, and as submitted in final form on March 8, 2020 under Dkt. No. 277. I did not participate in any conversations with a Unit Chief or the trial AUSAs about changing the language referred to by the Court. Other than any changes made to reflect my comments (submitted at 9:42), I do not know why the 9:31 PM version of the letter I reviewed was changed.


***Question 6: When the Court asked specific questions at trial on March 9, 2020 regarding the Government’s misrepresentation, were you aware that the accurate sentence responsive to the Court’s question had been edited or deleted? If so, explain why that was not communicated to the Court.***

13. I was not aware that the sentence had been edited or deleted.

\* \* \*

Affirmed under penalties of perjury pursuant to 28 U.S.C. § 1746.

Dated: Wilson, Wyoming  
October 16, 2020

A handwritten signature in blue ink, appearing to read "G. A. Lynch", written over a horizontal line.

# **EXHIBIT 1**

---

**From:** Kim, Jane (USANYS) 4 <Jane.Kim@usdoj.gov>  
**Sent:** Thursday, December 19, 2019 5:31 PM  
**To:** Lynch, Garrett  
**Cc:** Lake, Stephanie (USANYS); Krouse, Michael (USANYS)  
**Subject:** Re: Sadr MILs

Ah, got it. If you can think of places/ways to include that in the motion, I'm open and happy to incorporate language. Let me know and thank you!

On Dec 19, 2019, at 5:21 PM, Lynch, Garrett <[LynchG@dany.nyc.gov](mailto:LynchG@dany.nyc.gov)> wrote:

The former--the SWIFT platform is private. That said, failure to be transparent can violate any number of federal regs. All of the so-called "bank sanctions" case were based on foreign banks "stripping," omitting, or replacing info in SWIFT messages to ensure that they cleared through U.S. banks. Here, Ali in effect was telling PDVSA, "don't include IIHC in the beneficiary field, include Clarity."

(Now I'm really going off on a tangent, but Commerzbank was an intermediary bank in the first USD payment (to Stratus Turkey) and they actually picked up on "Stratus" in the payment message, drew the connection to the Iranian entity, and filed a report with OFAC.)

----- Original message -----

From: "Kim, Jane (USANYS) 4" <[Jane.Kim@usdoj.gov](mailto:Jane.Kim@usdoj.gov)>  
Date: 12/19/19 4:57 PM (GMT-05:00)  
To: "Lynch, Garrett" <[LynchG@dany.nyc.gov](mailto:LynchG@dany.nyc.gov)>  
Cc: "Lake, Stephanie (USANYS)" <[Stephanie.Lake@usdoj.gov](mailto:Stephanie.Lake@usdoj.gov)>, "Krouse, Michael (USANYS)" <[Michael.Krouse@usdoj.gov](mailto:Michael.Krouse@usdoj.gov)>  
Subject: Re: Sadr MILs

Is this a banking reg or a federal reg?

On Dec 19, 2019, at 4:54 PM, Lynch, Garrett <[LynchG@dany.nyc.gov](mailto:LynchG@dany.nyc.gov)> wrote:

Re: the transparency requirement, it's a little technical, particularly for the MIL, but the primary way to effect international payments of the kind contemplated by the U-turn exemption is/was through the SWIFT messaging platform, and the SWIFT message type for this kind of payment (the MT-103) has mandatory fields for the disclosure of the underlying parties to a transaction—i.e., the originator and the beneficiary—so that the processing banks know exactly who's involved in any given transaction (hence, the inclusion of "Iranian International Housing Company" on the payment message would have hit on any U.S. bank's filter). We have several examples of Ali receiving copies of SWIFT messages—he knew what info they contained and what had to be included.



**From:** Kim, Jane (USANYS) 4 [<mailto:Jane.Kim@usdoj.gov>]  
**Sent:** Thursday, December 19, 2019 4:26 PM  
**To:** Crowley, Shawn (USANYS) <[Shawn.Crowley@usdoj.gov](mailto:Shawn.Crowley@usdoj.gov)>; Bove, Emil (USANYS) <[Emil.Bove@usdoj.gov](mailto:Emil.Bove@usdoj.gov)>  
**Cc:** Lake, Stephanie (USANYS) <[Stephanie.Lake@usdoj.gov](mailto:Stephanie.Lake@usdoj.gov)>; Krouse, Michael (USANYS) <[Michael.Krouse@usdoj.gov](mailto:Michael.Krouse@usdoj.gov)>; Lynch, Garrett <[LynchG@dany.nyc.gov](mailto:LynchG@dany.nyc.gov)>  
**Subject:** Sadr MILs

All:

Attaching an updated version (redline and clean). We had to knock out 2 docs that are in our 151 not-usable docs. Probation has 3 SKN passports for the defendant; the first one has an issue date in 2009 (the others have no issue date, presumably because they are duplicates).

Shawn, I incorporated and addressed all your comments. Thank you. To your question re: Berman's rulings in Atilla, he (i) denied the motion to preclude argument/evidence/cross on bank negligence (they didn't move on the subject of negligible harm); and (ii) denied the motion in part re: cross of Dubowitz, allowing the defense to cross on donations that were public. He also denied most of the MILs from both sides and these rulings are not so evident from the docket.

Let us know if you have any more revisions. We'll proof/TOA/etc. tonight.

Thanks,  
Jane

CC-1	Mohammed Sadr
CC-2	Cetinel
CC-3	Zanganeh
CC-4	Karimi
CC-5	Cinar
CC-6	Moayed
CC-7	Taheri
CC-8	Estiroti
CC-9	Schneider

Jane Kim  
Assistant United States Attorney  
Southern District of New York  
One St. Andrew's Plaza  
New York, New York 10007  
Phone: (212) 637-2038  
Email: [jane.kim@usdoj.gov](mailto:jane.kim@usdoj.gov)

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# **EXHIBIT 2**



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**From:** Lynch, Garrett <LynchG@dany.nyc.gov>  
**Sent:** Friday, January 10, 2020 4:52 PM  
**To:** 'Lake, Stephanie (USANYS)'  
**Cc:** Kim, Jane (USANYS) 4; Krouse, Michael (USANYS)  
**Subject:** RE: Sadr - wire transfers  
**Attachments:** Commerz OFAC disclosure.pdf

In the spirit of closing the loop on the \$29M payment through Commerz, attached is the voluntary disclosure Commerze made to OFAC re: the payment.

---

**From:** Lake, Stephanie (USANYS) [mailto:Stephanie.Lake@usdoj.gov]  
**Sent:** Friday, January 10, 2020 3:16 PM  
**To:** Lynch, Garrett <LynchG@dany.nyc.gov>  
**Cc:** Kim, Jane (USANYS) 4 <Jane.Kim@usdoj.gov>; Krouse, Michael (USANYS) <Michael.Krouse@usdoj.gov>  
**Subject:** RE: Sadr - wire transfers

Closing the loop on this– I found a document in the material Fuenmayor gave us that discusses the \$29 million transfer through Fondo Chino, and he also mentioned it in the last meeting. I think this should be helpful in tying the wire information we have showing the Fondo Chino transfer to PDVSA. The doc is attached, if anyone cares, but it's also en Espanol (I've requested translation). Pages 14-15.

---

**From:** Lynch, Garrett <LynchG@dany.nyc.gov>  
**Sent:** Wednesday, January 08, 2020 12:46 PM  
**To:** Lake, Stephanie (USANYS) <SLake@usa.doj.gov>  
**Cc:** Kim, Jane (USANYS) 4 <JKim4@usa.doj.gov>; Krouse, Michael (USANYS) <MKrouse@usa.doj.gov>  
**Subject:** RE: Sadr - wire transfers

The Venezuelans used various state-owned "funds" and banks to fund various government projects, among them BANDES, the economic and social development bank (which, I believe made some early payments (not ours) related to the project), and Fondo Chino (the Chinese-Venezuelan Fund). Fondo Chino (at least ostensibly) was funded by oil sales to and loans from China (I think PDVSA and the government liberally moved money around). I forget exactly why Fondo Chino was used to make the first payment (or if we ever knew for sure) – my guess is that PDVSA, which controlled all oil-related funds (i.e., the Venezuelan purse), had adequate funds in the Fondo Chino account to make the payment from that account. I believe the money came from a Banco del Tesoro account in Venezuela, which had a correspondent relationship with Commerz in Germany. Thereafter, they used PDVSA accounts at Banco Espirito Santo in Portugal.

---

**From:** Lake, Stephanie (USANYS) [mailto:Stephanie.Lake@usdoj.gov]  
**Sent:** Wednesday, January 8, 2020 11:02 AM  
**To:** Lynch, Garrett <LynchG@dany.nyc.gov>  
**Cc:** Kim, Jane (USANYS) 4 <Jane.Kim@usdoj.gov>; Krouse, Michael (USANYS) <Michael.Krouse@usdoj.gov>  
**Subject:** RE: Sadr - wire transfers

Found the first one. Thanks. Do you know why it came from "Fondo Chino" / what that is?

That's fine on two. Just wanted to make sure I wasn't missing some other records that would show that information.

Definitely agree on the third point.

Thank you!

---

**From:** Lynch, Garrett <[LynchG@dany.nyc.gov](mailto:LynchG@dany.nyc.gov)>  
**Sent:** Wednesday, January 08, 2020 10:04 AM  
**To:** Lake, Stephanie (USANYS) <[SLake@usa.doj.gov](mailto:SLake@usa.doj.gov)>  
**Cc:** Kim, Jane (USANYS) 4 <[JKim4@usa.doj.gov](mailto:JKim4@usa.doj.gov)>; Krouse, Michael (USANYS) <[MKrouse@usa.doj.gov](mailto:MKrouse@usa.doj.gov)>  
**Subject:** RE: Sadr - wire transfers

1. Re: the first payment, there should be a copy of the SWIFT message in the Commerzbank production. In my version of the subpoena compliance production it's a PDF titled "Copy".
2. Re: the identity of the intermediary bank, the bank whose business record the wire transfer is is the intermediary bank, so the witness will be able to state that.
3. Also, for several of the payments, we have additional search warrant documents -- e.g., while we may just have the wire transfer record from the clearing bank, we may also have a SWIFT message attached to an email, or a Hyposwiss record, or some other document which identifies the payment route. When the dust settles on the SW docs, we can reconstruct my old payments binders where I had all of the documents bundled together for each payment (the payment instruction letter, the bank record(s), emails, attachments, etc.). This is what we did for the GJ.

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**From:** Lake, Stephanie (USANYS) [<mailto:Stephanie.Lake@usdoj.gov>]  
**Sent:** Tuesday, January 7, 2020 6:19 PM  
**To:** Lynch, Garrett <[LynchG@dany.nyc.gov](mailto:LynchG@dany.nyc.gov)>  
**Subject:** FW: Sadr - wire transfers

My original email had three attachments, which had to be sent to you securely. So you should be getting a secure message with instructions on how to access it.

---

**From:** Lake, Stephanie (USANYS)  
**Sent:** Tuesday, January 07, 2020 5:37 PM  
**To:** Lynch, Garrett <[LynchG@dany.nyc.gov](mailto:LynchG@dany.nyc.gov)>; Krouse, Michael (USANYS) <[MKrouse@usa.doj.gov](mailto:MKrouse@usa.doj.gov)>; Kim, Jane (USANYS) 4 <[JKim4@usa.doj.gov](mailto:JKim4@usa.doj.gov)>  
**Subject:** Sadr - wire transfers

See attached a spreadsheet (Payments) showing each transfer and where I found documentation. A few things:

- 1) I didn't find a wire confirmation for the 4/4/2011 \$29 million transfer. I did find reference to it in the CHIPS subpoena returns. It seems to show that it went from "Fondo Chino-Venezolano" to Stratus International Contracting (see attached two spreadsheets that show this). Garrett – do you know if we have a wire confirmation for that transfer?
- 2) I noticed that the wire confirmations don't generally show the U.S. intermediary bank on them. Is there other documentation I'm missing that has this information?

\*All documents are saved here: [\\Usa.doj.gov\\cloud\\NYS\\StAndrews\\Shared\\Iran\\_VEhousing-2017R01160\\###Trial\\Documents\\Payment](\\Usa.doj.gov\\cloud\\NYS\\StAndrews\\Shared\\Iran_VEhousing-2017R01160\\###Trial\\Documents\\Payment) Records and here: [\\Usa.doj.gov\\cloud\\NYS\\StAndrews\\Shared\\Iran\\_VEhousing-2017R01160\\Evidence](\\Usa.doj.gov\\cloud\\NYS\\StAndrews\\Shared\\Iran_VEhousing-2017R01160\\Evidence) [INT]\\Discovery\\#5 - Subpoena Returns\\To Produce.

Also – Garrett, I was thinking that if you don't already have the ability to remotely login to our network, we should have that set up! That way the file paths above wouldn't be useless to you.

Thanks!

Stephanie Lake  
Assistant United States Attorney  
Southern District of New York  
One Saint Andrew's Plaza  
New York, NY 10007  
Tel: (212) 637-1066

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**NEW YORK BRANCH**

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Office of Foreign Assets Control  
1500 Pennsylvania Avenue NW  
Washington DC 20220

Vinay Jepsal  
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Telephone (212) 266-7200  
Fax (212) 266-7235  
[vinay.jepsal@commerzbank.com](mailto:vinay.jepsal@commerzbank.com)

June 16, 2011

**Re: Information Sharing – Stratus International Contracting Company**

Dear Sir/Madam:

Commerzbank AG, New York Branch (CBNY) would like to share the following information with OFAC. On April 20, 2011 CBNY's AML transaction monitoring system generated an alert, which involved a transaction for USD 29,442,967.57 value April 4, 2011.

The transaction was originated by Banco Del Tesoro, CA Banco Universal Caracas for its client BT / Fideicomiso / Fondo Chino Venezolano in Caracas, Venezuela. The beneficiary of the payment was Stratus International Contracting Company ("Stratus"), a client of HypoSwiss Privatbank AG, Zurich.

As per standard procedure, CBNY initiated a request for information to the remitting bank Banco Del Tesoro, CA Banco Universal Caracas, Venezuela to obtain details on both entities and their relationship. In the interim, CBNY conducted further due diligence and noted the following regarding Stratus from its website:

- Stratus was founded in 1978 in Tehran, Iran
- Stratus International specializes in providing contracting services to infrastructure projects such as roads, railways, dams, tunnels, airports and buildings.
- Stratus is presently working on a 7000 Apartment Unit "New Ojeda" Housing Development Project in Venezuela

On May 12, 2011, CBNY received a response from the bank in Caracas indicating the following:

- Stratus's physical address is Gardenya Plaza 5, K:3 D:3 (Floor 3, Suite3) 34758 Atasehir, Istanbul, Turkey
- Stratus is registered in Istanbul, Turkey (copy of the registration attached)
- Stratus provides construction services in Turkey, Dubai and Venezuela
- The purpose of the payment is for the construction of a 7000 apartment unit project "Proyecto Urbanismo Nueva Ciudad Fabricio Ojeda, in Ciudad Ojeda, Estado Zulia, Venezuela (same address as listed on Stratus' website)

Although Stratus is not listed as an SDN, and the payment does not indicate any direct involvement of Iran or with Iran, due to conflicting information between the website and the response forwarded by the bank in Caracas, CBNY believes it appropriate to share this information with OFAC since Stratus may be an Iranian Company.

Chairman of the Supervisory Board: Klaus-Peter Müller  
Board of Managing Directors: Martin Blessing (Chairman),  
Frank Annuscheit, Markus Beumer, Achim Kassow, Jochen Klösges,  
Michael Reuther, Stefan Schmittmann, Ulrich Sieber, Eric Strutz, Martin Zielke

Commerzbank Aktiengesellschaft, Frankfurt am Main  
Registered Office: Frankfurt am Main Reg.No. 32000  
VAT No. DE 114 103 514



NEW YORK BRANCH

**Re: Information Sharing – Stratus International Contracting Company– Page 2**

We have added Stratus into our sanctions filter to monitor any future payments. Please note that apart from this transaction, there have not been any other payments involving Stratus processed by CBNY to date.

The purpose of this letter is to report the good faith efforts of Commerzbank AG, New York Branch in complying with applicable OFAC requirements and voluntarily informing OFAC of any information received during its investigation into possible sanctions-related entities.

Should you have any further questions concerning this matter, please do not hesitate to contact the signatories below.

Respectfully,

Commerzbank AG  
New York Branch

A handwritten signature in dark ink, appearing to read "Deepa Keswani".

Deepa Keswani  
Head of AML/Anti-Fraud/Sanctions Compliance

A handwritten signature in dark ink, appearing to read "Vinay Jepal".

Vinay Jepal  
Sanctions Compliance Officer

Encls.



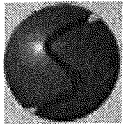
stratus intl payment

:LT Address	:COBAUS3XA
:transaction type	:202 COVER bank tfr favour 3rd bank
:input from	:COBADEFF
	COMMERZBANK AG FRANKFURT
	HEAD OFFICE
	32-36 NEUE MAINZERSTRASSE
	60261 FRANKFURT GERMANY
:validation Flag	:COV}

-----  
{4: Text block:

:20 /transaction reference number	:FAAS109400150500
:21 /related reference	:FAAS109400150500
:32A/value date	:040411 USD 29,442,967.57
:52A/ordering institution - BIC	:COBADEFF
	COMMERZBANK AG
	FRANKFURT AM MAIN
:57A/account with inst - BIC	:CHASUS33
	JPMORGAN CHASE BANK, N.A.
	NEW YORK, NY
:58A/beneficiary inst - BIC	:SHHBCHZZ
	HYPOSWISS PRIVATBANK AG, ZURICH
	ZURICH
:50K/ordering customer	:/400887746602USD
	BT/ FIDEICOMISO / FONDO CHINO
	VENEZOLANO. AV GUICAIPURO. URB EL
	ROSAL. TORRE BANCO DEL TESORO.
	CARACAS - VENEZUELA.
:52A/ordering institution - BIC	:BDTEVECA
	BANCO DEL TESORO, C.A. BANCO
	UNIVERSAL
	CARACAS
:59 /beneficiary customer	:/CH7708530519663100203
	STRATUS INTERNATIONAL CONTRACTING
	J.S.
:70 /details of payment	:REF: DESEMBOLSO NRO. 386 FONDO
	CHINO VENEZOLANO. CODIGO NRO.
	00579.
:33B/amount	:USD 29,442,967.57}

-----  
Entry : /SWIFT/ Date:110404 Time:02:44:17  
Info:1111/001781



**Stratus International**  
Contracting Company

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STRATUS International Contracting Company has been founded in 1978 in Tehran, Iran, with registered paid up share capital of RIs 100 billions. STRATUS provides contracting services to infrastructure projects such as Roads, Railways, Dams, Tunnels, Airports and Buildings. Since 1994, STRATUS has been the first pioneered company in exporting Engineering and Technical Services in Iran and received **"Exemplary Exporters"** of the year 1999 from his excellency Mr. president.



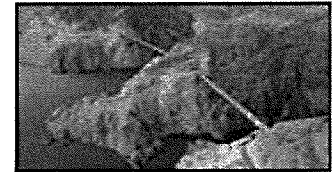
- STRATUS is an Engineering, Construction, Management and Contracting Company by specializing in the field of Building Construction, Road Works and Water Works.

STRATUS is Graded in three major categories: [Read more...](#)

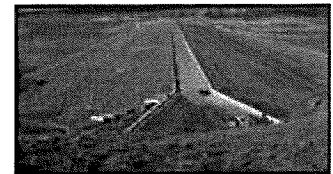
- STRATUS has succeeded to receive ISO 9001-2000 certificate for Quality Management System from MIC registered under UKAS, United Kingdom from 2004 which upgraded recently to ISO 9001-2008 in 2010 and intending to extend it by OHSAS 18001:2007. [Read more...](#)

- Our memberships:
  - Federation of Contractors of Islamic Countries (F.C.I.C.)
  - Pakistan Engineering Council
  - International Chamber of Commerce (I.C.C.)
  - Iran – UK Chamber of Commerce
  - Iran – Canada Chamber of Commerce [Read more...](#)

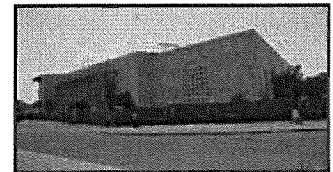
#### Road & Railway

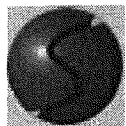


#### Dam



#### Building

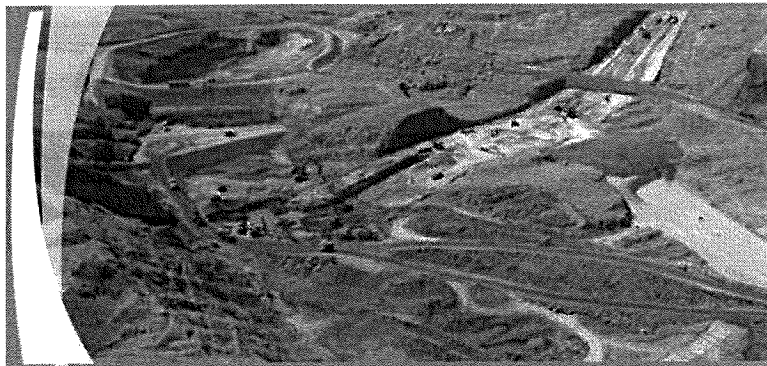




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---

## Contact Us

### STRATUS International Contracting Co.

Address: **No.35, Golestan St., Iran Zamin Ave., Shahrake Ghods, Tehran, Iran.**

Postal Code: **1465865187**

Tell: **(98) 21 8837 3100-6**

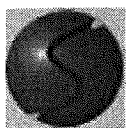
Fax: **(98) 21 8808 2882**

E-mail: **stratus@stratusgc.com**

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#### Branch Offices

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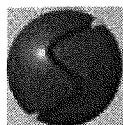
**Middle East**  
Iran  
Iraq

**CIS**  
Kazakhstan

**South America**  
Venezuela

---

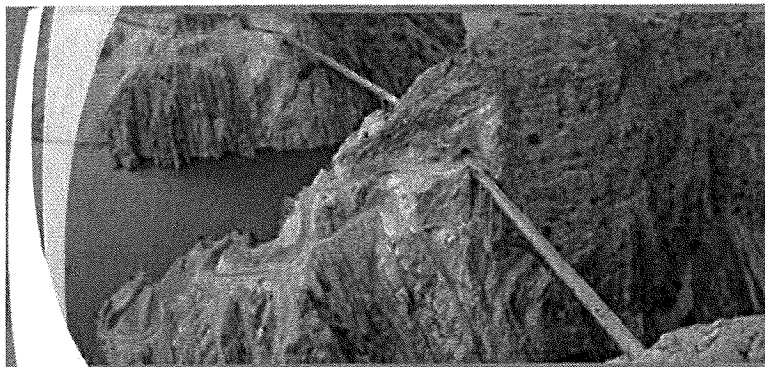
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## Sister Companies List



1. Samaneh Stratus (INVESTMENT CO.)



2. Iran Construction Investment Co.



3. Eghtesad - Novin Bank

4. Pishgaman Bazar Novin (BROKERAGE CO.)



5. Novin Insurance Co.



6. Pars Shahr Co.



7. Global Petro Tech CO.



8. Keyhan Tabadol Co.



9. Pars Hanza Aluminium CO.



10. Azarbaijan Industry Development Co.

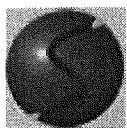
11. Eghtesad Novin Investment CO.



12. Samaneh Gostar Novin

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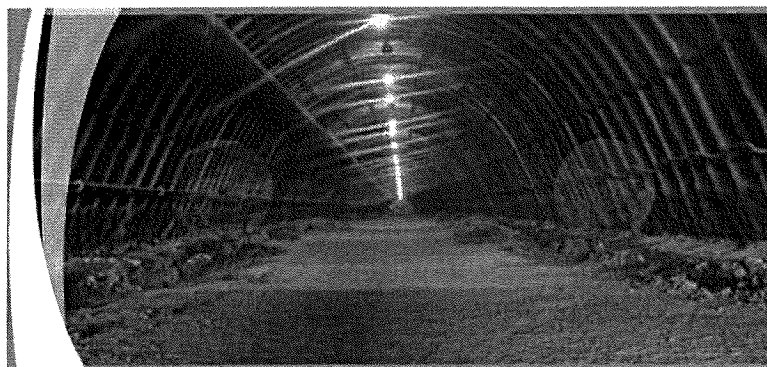
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### 7000 Units 'New Ojeda' Housing Development Project

---

Main Technical Features	Site Gross Area : 318 Hec. Concrete works : 520,000 m <sup>3</sup> Net Construction Area : 850.000 m <sup>2</sup> Water & Sewage network : 150 Km Electrical network : 200 Km Communication network : 220 Km Gas network : 30 Km
Location	Ciudad Ojeda, Zulia State, Venezuela
Employer	Ducolsa 'Urban Development S.A' 
Contract Duration	48 Months
Date of Award	September 2009
Status	[ Under Construction ]



[\[Back to list\]](#)





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**Dalbandin – Nokkundi Highway - Section III-B**

[Details >>](#)



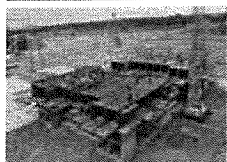
**Socotra Airport**

[Details >>](#)



**Design & Construction of Parliament Building & Commercial Center in Djibouti City**

[Details >>](#)



**7000 Units "New Ojeda" Housing Development Project**

[Details >>](#)





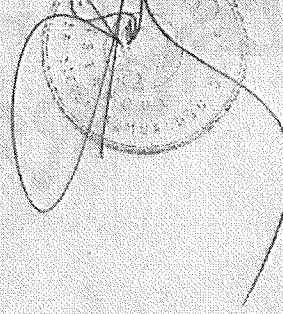
T.C.  
İSTANBUL  
Ticaret Sicil Memurluğu

(KADIKÖY)  
370857 - 2010

SİCİL TASDİKNAME Sİ

Ticaret Ünvanı	STRATUS INTERNATIONAL CONTRACTING İNŞAAT VE TAAHHÜT ANONİM ŞİRKETİ
Sicil No.	751671
Tescil Tarihi	22 / 10 / 2010
İşletme Merkezinin Adresi (Şubenin tescilinde şubenin Adresi ile beraber, merkezin adresi de yazılır.)	GARDENYA PLAZA 5 K.3 D.3 ATAŞEHİR
İşletmenin uğraştığı işler	Ana sözleşmesinde yazılı olan işler
İşletme sahibinin hüviyeti (Hükmi şahıslarda, hükmi şahsın mahiyeti)	Anonim
İşletme temsilcileri	38824643592 TC.No.lu CELAL TATLICIBAŞI
Tasdiknamenin düzenlenme Tarih ve Sayısı	22 EKİM 2010 - 39185

RECAİ SÖKMEN  
İSTANBUL TİCARET SİCİLİ  
MEMURU YARDIMCISI



# **EXHIBIT 3**

---

**From:** Kim, Jane (USANYS) 4 <Jane.Kim@usdoj.gov>  
**Sent:** Thursday, January 30, 2020 2:38 PM  
**To:** Lake, Stephanie (USANYS); Lynch, Garrett; Krouse, Michael (USANYS)  
**Subject:** RE: Commerzbank

Thanks, GL. Depending on how things go on Monday, we should also send trial subpoenas to the email providers.

---

**From:** Lake, Stephanie (USANYS) <SLake@usa.doj.gov>  
**Sent:** Thursday, January 30, 2020 2:11 PM  
**To:** Lynch, Garrett <LynchG@dany.nyc.gov>; Kim, Jane (USANYS) 4 <JKim4@usa.doj.gov>; Krouse, Michael (USANYS) <MKrouse@usa.doj.gov>  
**Subject:** RE: Commerzbank

Good call. I think it makes sense for you to go ahead and reach out about getting a witness. Thanks!

---

**From:** Lynch, Garrett <LynchG@dany.nyc.gov>  
**Sent:** Thursday, January 30, 2020 1:02 PM  
**To:** Lake, Stephanie (USANYS) <SLake@usa.doj.gov>; Kim, Jane (USANYS) 4 <JKim4@usa.doj.gov>; Krouse, Michael (USANYS) <MKrouse@usa.doj.gov>  
**Subject:** Commerzbank

One thing to flag: I don't think anyone has spoken to someone at Commerz. We need them for the first USD payment from Fondo Chino to Stratus International (which is a big one: \$29.4 million). All of the other payments involve either JPMC or Citi, but the first solely involved Commerz. I have contacts in their legal department if you want me to reach out to them about getting a witness (at the very least, we need someone to authenticate the wire transfer record in the event the defense doesn't stipulate).

Garrett A. Lynch  
Deputy Bureau Chief  
Major Economic Crimes Bureau  
New York County District Attorney's Office  
(212) 335-4335  
[lynchg@dany.nyc.gov](mailto:lynchg@dany.nyc.gov)

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# **EXHIBIT 4**



---

**From:** Lynch, Garrett <LynchG@dany.nyc.gov>  
**Sent:** Saturday, February 1, 2020 12:54 PM  
**To:** Lake, Stephanie (USANYS); Kim, Jane (USANYS) 4; Krouse, Michael (USANYS)  
**Subject:** RE: Trial witness

I did. They're happy to provide a witness (obviously happier to just provide a custodian). She believes (I think rightly) that they discovered the Stratus payment and filed the voluntary disclosure due to our investigation into the bank. That makes sense since they discovered the payment retroactively; it wasn't flagged in real time. So we can discuss how we would want to handle.

----- Original message -----

**From:** "Lake, Stephanie (USANYS)" <Stephanie.Lake@usdoj.gov>  
**Date:** 2/1/20 9:54 AM (GMT-05:00)  
**To:** "Lynch, Garrett" <LynchG@dany.nyc.gov>, "Kim, Jane (USANYS) 4" <Jane.Kim@usdoj.gov>, "Krouse, Michael (USANYS)" <Michael.Krouse@usdoj.gov>  
**Subject:** RE: Trial witness

Did you talk to her / how'd it go? Do we know what the basis for the disclosure was?

---

**From:** Lynch, Garrett <LynchG@dany.nyc.gov>  
**Sent:** Friday, January 31, 2020 11:05 AM  
**To:** Lake, Stephanie (USANYS) <SLake@usa.doj.gov>; Kim, Jane (USANYS) 4 <JKim4@usa.doj.gov>; Krouse, Michael (USANYS) <MKrouse@usa.doj.gov>  
**Subject:** FW: Trial witness

I'll reach out to her today. Let me know if anyone wants to join. The other asterisk with Commerz is that they filed a voluntary disclosure with OFAC regarding the payment – we should discuss whether it's worth having the Commerz witness go into that. It was signed by the head of AML/Anti-Fraud/Sanctions Compliance in NY – I'll see if she's still with the bank.

---

**From:** Spiller, Christina (NY) [<mailto:Christina.Spiller@commerzbank.com>]  
**Sent:** Friday, January 31, 2020 10:41 AM  
**To:** Lynch, Garrett <[LynchG@dany.nyc.gov](mailto:LynchG@dany.nyc.gov)>  
**Cc:** Lake, Stephanie (USANYS) <[Stephanie.Lake@usdoj.gov](mailto:Stephanie.Lake@usdoj.gov)>; Krouse, Michael (USANYS) <[Michael.Krouse@usdoj.gov](mailto:Michael.Krouse@usdoj.gov)>; Kim, Jane (USANYS) 4 <[Jane.Kim@usdoj.gov](mailto:Jane.Kim@usdoj.gov)>  
**Subject:** RE: Trial witness

Hello Garrett,

I just got your message and am happy to speak at your convenience. I'm free for most of today (except between 4.30 and 5.30 pm) and next week is pretty flexible as well.

Best,

Christina

Christina Spiller

Commerzbank AG

New York Branch

+1 (212) 895-5267

---

**From:** Lynch, Garrett [<mailto:LynchG@dany.nyc.gov>]  
**Sent:** Friday, January 31, 2020 10:18 AM  
**To:** Spiller, Christina (NY)  
**Cc:** Lake, Stephanie (USANYS); Krouse, Michael (USANYS); Kim, Jane (USANYS) 4  
**Subject:** Trial witness

Hello Christina,

I left you a voicemail yesterday about a case I'm handling with the Southern District that is going to trial in early March. It involves a series of USD payments cleared through banks in New York in violation of U.S. sanctions against Iran in the 2011-2013 time period. In particular, one payment in April 2011 was processed through Commerzbank's Frankfurt and New York branches in the amount of \$29 million (the wire transfer record is attached). At trial, we likely will need a witness from Commerz to (a) authenticate the wire transfer record and possibly (b) testify about Commerz's payment screening at that time in NY. Can you let us know a good time to discuss?

Thanks,

Garrett

Garrett A. Lynch

Deputy Bureau Chief

Major Economic Crimes Bureau

New York County District Attorney's Office

(212) 335-4335

[lynchg@dany.nyc.gov](mailto:lynchg@dany.nyc.gov)

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# **EXHIBIT 5**

---

**From:** Spiller, Christina (NY) <Christina.Spiller@commerzbank.com>  
**Sent:** Monday, March 9, 2020 4:22 AM  
**To:** Lynch, Garrett  
**Cc:** Lake, Stephanie (USANYS); Fruchter, Michael  
**Subject:** RE: Trial witness

Hi Garrett,

I apologize but I didn't see your message until just now. My phone was in airplane mode and I'm in Austria for the week. Can you please reach out to Mike Fruchter (copied) if you still need assistance, and I will also have my phone today.

Best,  
Christina

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: "Lynch, Garrett" <LynchG@dany.nyc.gov>  
Date: 3/7/20 2:46 AM (GMT+01:00)  
To: "Spiller, Christina (NY)" <Christina.Spiller@commerzbank.com>  
Cc: "Lake, Stephanie (USANYS)" <Stephanie.Lake@usdoj.gov>  
Subject: RE: Trial witness

Hi Christina,

I'm sorry to disturb you on a Friday night, but are you available tonight or tomorrow to quickly discuss a possible trial witness for Monday? I know this is very sudden notice, but an issue unexpectedly has made the one payment that went through Commerz in our case relevant.

Thank you!

Garrett

----- Original message -----

From: "Spiller, Christina (NY)" <Christina.Spiller@commerzbank.com>  
Date: 1/31/20 10:42 AM (GMT-05:00)  
To: "Lynch, Garrett" <LynchG@dany.nyc.gov>  
Cc: "Lake, Stephanie (USANYS)" <Stephanie.Lake@usdoj.gov>, "Krouse, Michael (USANYS)" <Michael.Krouse@usdoj.gov>, "Kim, Jane (USANYS) 4" <Jane.Kim@usdoj.gov>  
Subject: RE: Trial witness

Hello Garrett,



I just got your message and am happy to speak at your convenience. I'm free for most of today (except between 4.30 and 5.30 pm) and next week is pretty flexible as well.

Best,

Christina

Christina Spiller

Commerzbank AG

New York Branch

+1 (212) 895-5267

---

**From:** Lynch, Garrett [mailto:LynchG@dany.nyc.gov]  
**Sent:** Friday, January 31, 2020 10:18 AM  
**To:** Spiller, Christina (NY)  
**Cc:** Lake, Stephanie (USANYS); Krouse, Michael (USANYS); Kim, Jane (USANYS) 4  
**Subject:** Trial witness

Hello Christina,

I left you a voicemail yesterday about a case I'm handling with the Southern District that is going to trial in early March. It involves a series of USD payments cleared through banks in New York in violation of U.S. sanctions against Iran in the 2011-2013 time period. In particular, one payment in April 2011 was processed through Commerzbank's Frankfurt and New York branches in the amount of \$29 million (the wire transfer record is attached). At trial, we likely will need a witness from Commerz to (a) authenticate the wire transfer record and possibly (b) testify about Commerz's payment screening at that time in NY. Can you let us know a good time to discuss?

Thanks,

Garrett

Garrett A. Lynch

Deputy Bureau Chief

Major Economic Crimes Bureau

New York County District Attorney's Office

(212) 335-4335

lynchg@dany.nyc.gov

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# **EXHIBIT 6**

---

**From:** Lynch, Garrett <LynchG@dany.nyc.gov>  
**Sent:** Sunday, March 8, 2020 9:42 PM  
**To:** 'Lake, Stephanie (USANYS)'  
**Subject:** RE: Proofing and then I'll file these objections

Under the bus again! Eureka! If you care for it, here's the outline of the Commerz investigation:

- Initiated in January 2011; concluded in March 2015.
- Focused on conduct in period from 2002 – 2007 at Commerzbank, AG in Germany.
- Obtained voluminous data related bank's USD transaction activity in that period.
- Also obtained information during investigation about sanctions related activity the bank detected during the course of our investigation and voluntarily reported to OFAC. Received 217 pages. This letter was included in those 217 pages.
- 

In January 2020, I recalled seeing this document in those records and provided it to you.

I have reviewed the other 217 records, and there is no other record related to any individual or entity in this case.

I have reviewed the emails and records we obtained related to the author of the letter (Deepa Keswani), and all of the records we have (other than the 217 pages of OFAC disclosures) date to the period of the conduct under investigation (i.e., 2002-2007) and do not relate to this transaction or to these entities.

Still reviewing other stuff...

---

**From:** Lake, Stephanie (USANYS) [mailto:Stephanie.Lake@usdoj.gov]  
**Sent:** Sunday, March 8, 2020 9:31 PM  
**To:** Kim, Jane (USANYS) 4 ; Krouse, Michael (USANYS) ; Lynch, Garrett ; Lynch, Garrett (USANYS) [Contractor]  
**Subject:** RE: Proofing and then I'll file these objections

Here's a shitty draft.

---

**From:** Kim, Jane (USANYS) 4 <[JKim4@usa.doj.gov](mailto:JKim4@usa.doj.gov)>  
**Sent:** Sunday, March 08, 2020 9:15 PM  
**To:** Krouse, Michael (USANYS) <[MKrouse@usa.doj.gov](mailto:MKrouse@usa.doj.gov)>; Lynch, Garrett <[LynchG@dany.nyc.gov](mailto:LynchG@dany.nyc.gov)>; Lake, Stephanie (USANYS) <[SLake@usa.doj.gov](mailto:SLake@usa.doj.gov)>; Lynch, Garrett (USANYS) [Contractor] <[GLynch@usa.doj.gov](mailto:GLynch@usa.doj.gov)>  
**Subject:** Proofing and then I'll file these objections

In 10 minutes unless anyone has objections.

Jane Kim  
Assistant United States Attorney  
Southern District of New York  
One St. Andrew's Plaza  
New York, New York 10007  
Phone: (212) 637-2038  
Email: [jane.kim@usdoj.gov](mailto:jane.kim@usdoj.gov)